

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte QIN LIU, CHARLES C. HALUZAK,
MARZIO LEBAN, LAWRENCE R. PLOTKIN,
and KENNETH E. TRUEBA



Application 10/061,830

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (hereinafter the "Board") on May 14, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below:

Panel Remand

On October 27, 2006, the Board mailed a Remand to the Examiner for the Examiner to consider and explain issues raised by the record. *See* 37 C.F.R. § 41.50(a)(1)(2006) and the MPEP § 1211 (8th ed., Rev. 3, August 2005). In particular, the Examiner objected to the Amendment filed on January 11, 2005 as introducing new matter under 35 U.S.C. § 132 and identifies the "added material." However, the Examiner failed to identify

where in said Amendment the material appeared. In response to the Board Remand, on December 7, 2006, the Examiner mailed a Supplemental Examiner's Answer. According to MPEP § 1207.05 (8th ed., Rev. 3, August 2005), "[e]very supplemental examiner's answer must be approved by a Technology Center (TC) Director or designee." The Supplemental Examiner's Answer mailed on December 7, 2006 has not been approved by the TC Director or designee.

Moreover, it does not appear that the Examiner has interpreted the "means" limitation of claim 9, as required by the Board on page 5 of the Remand mailed on October 27, 2006.

Examiner's Response to Appellants' Reply Brief

On February 1, 2007, Appellants filed a Reply Brief in response to the Examiner's Supplemental Answer. On March 28, 2007, the Examiner responded to Appellants' Supplemental Reply Brief with another Supplemental Examiner's Answer. According to MPEP § 1208(II):

In response to the supplemental examiner's answer, the appellant may file another reply brief under 37 CFR 41.41 within 2 months from the mailing of the supplemental examiner's answer. . . . The acknowledgement of receipt and entry of a reply brief under 37 CFR 41.41 is an indication by the examiner that no further response by the examiner is deemed necessary.

A review of the application reveals that the Examiner has not appropriately responded to Appellant's Supplemental Reply Brief.

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Accordingly, it is

ORDERED that the application is returned to the Examiner for resolution of the following issues:

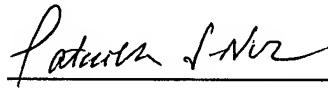
(1) to obtain the appropriate approval from a TC Director or designee for the Supplemental Examiner's Answer mailed on December 7, 2006;

(2) to properly interpret the "means" limitations of appealed dependent claim 9, as required on page 5 of the Board Remand mailed on October 27, 2006;

(3) to prepare an appropriate response to Appellants' Supplemental Reply Brief filed on February 1, 2007; and

(4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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PJN/clj

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